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## Part V

## Environmental Protection Agency

Hazardous Waste Management System;  
Notification Concerning the Basel  
Convention's Potential Implications for  
Hazardous Waste Exports and Imports;  
Notice

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# ENVIRONMENTAL PROTECTION AGENCY.

[SW-FR 4132-5]

## Hazardous Waste Management System; Notification Concerning the Basel Convention's Potential Implications for Hazardous Waste Exports and Imports

**AGENCY:** Environmental Protection Agency.

**ACTION:** Announcement of the entry into force of the Basel Convention.

**SUMMARY:** On May 5, 1992, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention) enters into force for the first twenty countries that have ratified it. The United States has not yet ratified the Basel Convention; therefore, U.S. requirements regarding imports and exports of hazardous waste remain unchanged. This information-only notice describes the development and major provisions of the Convention. It also discusses the potential impacts that requirements imposed by ratifying countries to implement the Convention may have on U.S. waste importers and exporters.

The complete text of the Basel Convention is included with this notice.

**EFFECTIVE DATE:** May 5, 1992.

### FOR FURTHER INFORMATION CONTACT:

For general information contact the RCRA Hotline, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460 from 9 a.m. to 7:30 p.m. (EST), Monday through Friday, except for Federal holidays; Telephone (800) 424-9346 (toll free) or, in the Washington, DC, Metropolitan area at (703) 920-9810.

For information on specific aspects of this notice, contact Ms. Angela Cracchiolo, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, telephone (202) 260-4779.

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#### I. Basel Convention: Background

##### A. History of Development

The United Nations Environment Programme (UNEP) began working towards controlling international shipments of waste in 1982, pursuant to a 1982 UNEP Governing Council decision mandating the development of guidelines and principles for environmentally sound management of hazardous waste. At virtually the same time (1983), the Organization for Economic Cooperation and Development (OECD) Environment Committee's Waste Management Policy Group began working on a program to control transboundary movements of wastes. The United States has been an active participant in the activities of both OECD and UNEP.

Since 1984, OECD has adopted four legally binding Decisions for its members (the United States has agreed to all four Decisions). Briefly, these Decisions require OECD Members to:

1. Control international shipments via advance notification.
2. Develop an overall tracking system.
3. Require prior consent of receiving countries outside the OECD.
4. Define the scope of coverage for wastes that will be controlled.

In the interest of broader international involvement and commitment, OECD discontinued work in this area after a 1988 Decision<sup>1</sup> to defer to UNEP's

efforts. Much of OECD's early work, including the list identifying wastes to be covered by an international agreement, was adopted by UNEP without change.

Continuing development in this area, UNEP created the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes, which were adopted by the UNEP Governing Council in 1987. The Cairo Guidelines contained definitions, provisions for generation, transportation, and management of waste, monitoring and control, remedial action, recordkeeping, safety and contingency planning, liability and compensation. Countries would have the right to refuse a waste shipment if it could not be handled in an environmentally sound manner. However, the Cairo Guidelines were nonbinding and unenforceable guidelines that acted as a code of practice. Soon after their completion, UNEP began planning a convention which would go beyond the Cairo Guidelines by including effective and enforceable monitoring and control requirements to ensure environmentally sound management of transboundary movements of hazardous and other wastes. The Basel Convention was negotiated under UNEP beginning in 1988.

A conference of UNEP delegates met in Basel, Switzerland, in March 1989, at which time the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal was concluded and opened for signature. A two-step procedure is involved in "activating" the Convention. Countries first sign the Convention, then once they have the authority and are prepared to implement its terms, they may ratify it.

##### B. Reasons for Development

There are two major reasons for the development of the Basel Convention. The first involves the increasing shortage of waste management capacity in several countries, leading to larger volumes of solid and hazardous waste movements across borders. Some countries generate such small quantities of hazardous waste that it is not economically efficient to build disposal facilities in these countries, therefore, their waste is exported.

A second issue that provided a major impetus for the development of Basel is the occurrence of several international incidents where wastes which may have been hazardous wastes in either the country of origin or the country of import have been indiscriminately

<sup>1</sup> Decision on Transboundary Movements of Hazardous Waste C(88)90(Final), adopted by the Council on May 27, 1988.

dumped in developing countries, either with or without their consent. For example, in August 1986, the ship *Khian Sea* left Philadelphia loaded with 15,000 tons of municipal incinerator ash and set sail for Haiti, where it unloaded some of its cargo. The shipping papers accompanying the waste labeled the incinerator ash as bulk construction material and top soil ash fertilizer. After Haiti strongly opposed this action, the incident gathered international attention, particularly from the Pan-American Health Organization and the World Health Organization. The *Khian Sea* then left Haiti and began a two-year voyage around the world in search of a country that would accept its waste. After several additional refusals and several changes of the ship's name, the *Khian Sea* appeared in Singapore with a new name and empty cargo holds.

Another incident involved waste from Italy that was transported and unloaded in Nigeria, in a total of five shipments from August 1987 to May 1988. In 1988 the Nigerian government ordered the waste to be sent back to Italy. After a lengthy trip and many refusals from ports, the waste was finally returned to Italy.

For developing or newly industrialized countries, the practice of importing waste can be a very profitable one, and there can be a strong incentive for individuals in developing countries to participate in this activity. However, developing and newly industrialized countries often have limited capacity or capability to ensure proper waste treatment and disposal. Illegally disposed wastes can cause contamination of ground water, surface water, soil, air, and biota. A study by UNEP and the World Health Organization on contamination of water, soil, and air concluded that the "degree of contamination is worse in [developing] countries and newly industrialized countries than it is in most of the developed ones."<sup>2</sup> The contamination of the environment in developing countries can directly affect the health of the people, cause them to relocate, and cause the loss of productive land, natural resources, and certain economic activities. The negotiators of the Basel Convention wanted to promote environmentally sound management of exported and imported wastes, especially in these developing countries.

To date, at least 83 countries, representing the African, Latin-Caribbean and Asian-Pacific regions

have banned hazardous waste imports, and a number have adopted strict penalties for illegal imports.

#### *c. Entry Into Force of the Convention*

##### **1. 90 Days After 20th Ratification**

The Basel Convention was open for signature from March 22, 1989, through March 22, 1990. Fifty-three countries signed the Convention, including the United States. By signing the Convention, a country indicates that it agrees with the goals of the Convention and is moving towards ratification. Ratification signals a country's ability to implement the provision of the Convention. As of February 5, 1992, twenty countries had ratified the Convention. Ninety days after the twentieth ratification (May 5, 1992), the Basel Convention will enter into force, becoming effective for those twenty countries. For any country that ratifies the Convention after its entry into force, the Basel Convention will be effective for that country 90 days after the date it ratifies (Article 25).

##### **2. List of Ratifying Countries**

The following countries ratified the Basel Convention on or before February 5, 1992:

Argentina	Mexico
Australia	Nigeria
China	Norway
Czechoslovakia	Panama
El Salvador	Romania
Finland	Saudi Arabia
France	Sweden
Hungary	Switzerland
Jordan	Syria
Liechtenstein	Uruguay

On March 20, 1992, Poland became the twenty-first country to ratify the Convention; therefore, Basel will enter into force for Poland on June 18, 1992.

#### *D. Next Steps in Implementation of the Convention*

##### **1. Submission of Waste Lists to UNEP Interim Secretary**

Within six months of becoming a Party to the Convention, each Party must submit to the Secretariat a list of those wastes which it considers hazardous, other than those listed in Annexes I and II of the Convention. In addition to the wastes listed in the Convention, Basel provisions apply to any other wastes considered or defined as hazardous by its Parties.

##### **2. Meeting of the Conference of the Parties**

The Basel Convention requires that a meeting of the Conference of the Parties be held within one year of the Convention's entry into force to discuss implementation issues such as technical

guidelines to ensure environmentally sound management. Adoption of procedural rules and determination of financial participation, as well as discussions on development of a liability protocol, will also be topics of the first meeting. The first meeting of the Conference of the Parties has not been scheduled, but the Interim Secretariat for the Basel Convention expects it to take place in Fall 1992.

#### **II. Basel Convention: Summary of Provisions**

The Basel Convention's main goal is to protect human health and the environment against the adverse effects that may result from mismanagement or careless international movements of hazardous and other wastes. The Convention seeks a reduction in waste generation, a reduction in transboundary waste movements consistent with environmentally sound and efficient waste management, and sets a standard of environmentally sound management for those waste movements that do occur. Wastes covered by the Convention include hazardous wastes, household wastes, and residues arising from the incineration of household wastes.

The Convention controls the transboundary movement of these wastes from one Party to another. Before a transboundary movement of hazardous or other wastes may occur, the exporting country must notify in writing the countries of import and transit and must obtain their consent. The shipment cannot proceed until the exporting country has received written consent from the importing country and any transit countries as well as confirmation of the existence of a waste management contract between the exporter and the importer. Both the exporting and importing countries are obligated to prohibit a transboundary movement if there is reason to believe that the waste will not be managed in an environmentally sound manner in the importing country.

In addition, Basel Parties are prohibited from exporting or importing covered waste to or from non-Parties except in cases in which separate government agreements exist which provide for environmentally sound management.

##### **A. Waste Coverage**

The Basel Convention defines hazardous wastes as:

- Wastes listed in Annex I (of the Basel Convention) unless they do not exhibit one or more of the

<sup>2</sup> "Third world has most chemical contamination," *Chemical & Engineering News*, October 3, 1988, pp. 8-9.

characteristics identified in Annex III, using national testing procedures, and

- Wastes considered to be or defined as hazardous by one or more of the exporting, importing, or transit Parties<sup>3</sup>.

In addition, Basel covers "other wastes" (listed in Annex II), which are wastes from households and residues from the incineration of household waste.

Two waste streams are specifically excluded from coverage:

- Radioactive wastes covered by other international controls, and
- Wastes from ships covered by other international controls.

#### *B. Prohibitions on Shipments To and From Non-Parties*

The Convention prohibits transboundary movements of covered wastes between Parties and non-Parties. However, pursuant to Article 11, exports or imports of Basel wastes between Parties and non-Parties may occur if there is a separate pre-existing bilateral or multilateral agreement between those countries that is compatible with the environmentally sound management standard in Basel. Bilateral or multilateral agreements or arrangements that Parties enter into after the entry into force date of the Convention must not derogate from the environmentally sound management required under Basel.

The United States currently has two pre-existing bilateral agreements. One agreement is with Canada, to which the U.S. exports 68 percent of its total exported hazardous waste (1990), and the other is with Mexico, to which the U.S. exports 28 percent of its total exported hazardous waste (1990). In addition, on March 30, 1992, the Organization for Economic Cooperation and Development (OECD), of which the United States is a Member, adopted a multilateral Decision that allows for transboundary movements of waste for recovery.

#### *C. Prerequisites to Exporting*

The Convention requires that wastes be exported only if the exporting country does not have adequate disposal capacity, facilities, or disposal sites to dispose of the waste in an environmentally sound and economically efficient manner or, if the wastes are required as a raw material for recycling or recovery industries in the importing country.

#### *D. Notice and Consent*

Before an export may occur, the Convention requires that the exporting country notify the receiving country and any transit countries of the proposed movement of hazardous wastes or other wastes. (A transit country is one through which the waste shipment will travel en route to the importing country.) Upon receiving notice of a proposed shipment, the importing and transit countries may either consent to the shipment with or without conditions, deny permission, or request additional information. The waste shipment may be exported only after the importing and transit countries have consented. The exporting country must take actions to stop the export if it occurs without the written consent of the importing and transit country or under conditions discussed under paragraph E below.

#### *E. Exporting and Importing Country Responsibilities*

Both exporting and importing countries are responsible for prohibiting or stopping (if en route) transboundary shipments of waste if they have reason to believe that the waste will not be handled in an environmentally sound manner in the importing country. *Environmentally sound manner* is defined in the Convention as "taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes." Technical guidelines for environmentally sound management will be a topic for discussion at the first meeting of the Conference of the Parties (Article 4).

In addition, if a shipment cannot be delivered to the destination for which consent has been given, or is not accepted by the destination facility, the exporter has the responsibility for ensuring that the wastes are returned to the exporting country if alternative arrangements cannot be made for their environmentally sound disposal, consistent with all terms of the Convention, within 90 days, or another time-frame agreed upon by the countries concerned. The exporting country must also require that the exporter or generator take back any wastes illegally exported or must assume responsibility for the waste if the exporter or generator does not do so. If the disposer in the importing country committed the illegal act, then this obligation rests with the importing country. Where responsibility for the illegal movement cannot be determined, Parties are required to

cooperate to ensure environmentally sound management.

#### *F. International Cooperation*

A fundamental principle of the Basel Convention is that Parties respect the import laws of other Parties. If a country has prohibited the import of certain wastes, and has notified other countries of that decision, Parties may not allow exports of prohibited wastes to that country.

All Parties have an obligation to cooperate with other Parties in developing technical guidelines for achieving environmentally sound management. This involves an obligation to share information on technical standards that will promote environmentally sound waste management. In addition, this commitment involves cooperation in monitoring the effects of certain waste management practices on human health and the environment. Parties also are required to cooperate in providing assistance to developing countries in implementing environmentally sound management practices.

#### *G. Tracking, Accidents, and Reporting*

The Convention includes requirements for tracking wastes through use of a "movement document," which must accompany the waste shipment from the point the transboundary movement begins to the point of disposal. (Disposal includes a subset of activities which may lead to recovery as well as final disposal under the Convention's terms.) In addition, shipments of waste must be packaged, labelled, and transported in conformance with international rules.

If an accident involving a waste shipment occurs during transportation or disposal that poses a risk to human health or the environment, the Convention requires that the responsible Parties inform potentially affected countries of the accident. In addition, Basel Parties must inform each other, through the Secretariat of the Convention, of changes in the authorities responsible for implementation of the Convention in their country, changes in the definition of hazardous waste, and decisions to prohibit or not consent to the import of certain wastes. Lastly, Parties must submit an annual report to the Secretariat. The report must include amounts and types of hazardous and other wastes exported and their destination, transit countries, and disposal method; amounts and types of hazardous and other wastes imported, their origin, and disposal method.

<sup>3</sup> In the case of the United States, the Resource Conservation and Recovery Act (RCRA) as amended, is the domestic legislation that provides authority for EPA to identify hazardous wastes.

disposals that were not completed as planned; efforts to reduce waste exports; and other specified pieces of information.

#### *H. Ban of Shipments to Antarctica Treaty Area*

The Convention prohibits the export of hazardous or other wastes to the Antarctica Treaty Area (south of 60 degrees south latitude).

### **III. Progress Towards U.S. Ratification of Basel**

#### *A. Basel Signed by U.S. on March 21, 1990*

United States' authority over the export of hazardous wastes is found in section 3017 of the Resource Conservation and Recovery Act (RCRA), which currently requires notice to, and consent from, an importing country prior to export of hazardous waste. In March 1989, President Bush announced he would seek legislation which would ensure that U.S. hazardous waste be exported only when an agreement exists with the importing country that ensure environmentally sound management of the waste. The United States Ambassador to the United Nations, Thomas Pickering, signed the Basel Convention on March 21, 1990, as part of the United States' new policy.

#### *B. Importance of U.S. Ratification*

##### **1. Negotiation of Rules for Implementation and Related Protocols**

Within one year of entry into force of the Convention, a first meeting of the Conference of the ratifying Parties will be held. It is anticipated that the first meeting will occur in Fall 1992. The purpose of the meeting will be to agree upon and adopt procedural and financial participation rules for the Parties and to consider other implementation issues, such as technical guidelines for environmentally sound management. Discussions may also include amendments or additional action needed to carry out the mission of the Convention, establishment of subsidiary bodies, and adoption of appropriate liability protocols.

##### **2. Full Participation Only by Basel Parties**

Non-Party countries, such as the U.S., and other interested parties may be represented as observers at meetings of the Conference of the Parties, and may be allowed courtesy participation in the negotiation process. However, non-Parties will not have the authority to vote on these issues and may face other constraints in fully representing their positions during the negotiations.

#### *C. Procedure for U.S. Ratification of Basel*

The United States Constitution requires that the Senate consent to the ratification of international treaties. In keeping with this requirement, President Bush transmitted the Basel Convention to the Senate for its advice and consent in May 1991. In addition, before ratification can occur, the U.S. government must have sufficient authority to implement the terms of the Convention. Current authority is lacking in several major areas, including:

- Authority to control exports or imports of certain Basel-covered wastes (e.g., household waste and household incinerator ash);
- Authority to object to a shipment of waste leaving the U.S. if it has reason to believe the waste will not be managed in an environmentally sound manner, notwithstanding consent of the importing country.
- Authority to require the exporters bring illegal waste shipments back to the U.S. or the authority to assume such a responsibility should the exporter fail to do so.

An Administration bill and a number of other bills have been introduced into both Houses of Congress to increase EPA's authority over transboundary waste movements, consistent with provisions of the Convention.

#### *D. Proposed Legislation*

The following legislative proposals covering transboundary waste movements were introduced into the Congress in 1991:

1. "The Hazardous and Additional Waste Export and Import Act of 1991," introduced on behalf of the Administration into the Senate by Senator Chafee (S. 1082) and into the House of Representatives by Congressman Lent (H.R. 2398), May 1991.
2. "The Waste Export Control Act," (H.R. 2358), introduced into the House of Representatives by Congressman Synar and Wolpe, May 1991.
3. "The Waste Export and Import Prohibition Act," (H.R. 2580), introduced into the House of Representatives by Congressman Towns submitted H.R. 2580, June 1991.
4. "The International Hazardous Waste Disposal and Enforcement Act of 1991," (S. 1643), introduced into the United States Senate by Senator Akaka, August 1991.

In March 1992, as part of reauthorizing legislation for RCRA, Chairman Baucus of the Senate Environment and Public Works Committee, Environmental Protection Subcommittee, introduced

into committee mark-up a section governing hazardous and additional waste imports and exports.

#### *IV. Existing International Agreements*

The authors of the Basel Convention recognized that some countries may be involved in pre-existing government-to-government arrangements regarding transboundary waste movements and that some countries may have difficulty ratifying the Convention before it entered into force. Thus, under article 11, upon entry into force of the Basel Convention, transboundary movements of covered waste between Basel Parties and non-Parties may continue to take place if there is an international agreement between these countries for those wastes, provided that the agreement is compatible with the environmentally sound management required under the Convention. The U.S. currently has a bilateral agreement with Canada and a bilateral agreement with Mexico. In addition, the U.S., as a member of the OECD, is bound by a multilateral arrangement for transboundary movements of recyclables within the OECD region. Therefore, after May 5, 1992, transboundary movements of Basel wastes may take place between selected Basel Parties and the U.S., but only pursuant to the bilateral or multilateral agreements or arrangements noted above.

#### *A. U.S./Canada Bilateral Agreement*

In 1986, the United States and Canada entered into a bilateral agreement concerning transboundary movement of hazardous waste. The 14-article agreement covers imports, exports, and transit movements. The agreement stipulates that:

1. The exporting country notify the importing country of a proposed export;
2. The designated authority has 30 days from the date of receipt of the notice to indicate consent or objection to the export;
3. If no objection is received within the 30-day period, the country of import is considered to have no objection to the export.

Also included in the U.S./Canada agreement are provisions which require that shipments conform to the regulations of the importing country; provisions for notification of transit shipments; requirements for cooperative efforts in monitoring to ensure compliance with regulations in both countries; and a provision for readmitting exports for any reason. Parties also may require that any transboundary movement of hazardous

waste be insured against damage to third parties.

#### *B. U.S./Mexico Bilateral Agreement*

Also in 1986, the U.S. and Mexico entered into a bilateral agreement for hazardous waste transboundary movements. The agreement allows the export of hazardous waste from Mexico into the United States for recovery or disposal, as well as transit shipments through the U.S. and Mexico. Since the import of hazardous wastes for disposal in Mexico is forbidden under Mexican Presidential decree, hazardous wastes may be exported to Mexico under the agreement only for the purpose of recycling.

The U.S./Mexico agreement requires the exporting country to provide a notification of intent to export hazardous waste to the importing country 45 days in advance of shipment; the consent or objection by the importing country must be reported in another 45 days. In contrast to the Canadian agreement, if a response from Mexico is not received within the prescribed time, consent is not implied. The bilateral agreement also references the requirement under the Mexican Maquiladora Program that hazardous wastes generated from raw materials admitted in bond be returned to the country of export of the raw materials. The Maquiladora Program was established to attract U.S. industries to Mexico to promote industrial development in that country. The liability provisions of the U.S./Mexico bilateral agreement call for the country of export to take action, within the limits of its legal authority, that will result in:

1. The return of the hazardous waste to the country of export;
2. The return, insofar as practicable, of the status quo ante of the affected ecosystem; and
3. The repair, through compensation, of damages caused to persons, property, or the environment.

#### *C. OECD Decision*

On March 30, 1992, the Council of the Organization for Economic Cooperation and Development (OECD) adopted a legally binding Decision on The Control of Transfrontier Movements of Wastes Destined for Recovery Operations. The OECD Member countries which adopted the Decision are: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States. The OECD Decision, which covers waste materials destined for recovery

operations, is a preexisting arrangement under Article 11 of the Basel Convention. The OECD multilateral arrangement will allow for the U.S. to continue exporting and importing hazardous waste to and from other OECD Members, including those who are Basel Parties, for the purpose of recovery, after entry into force of the Basel Convention. However, the OECD arrangement does not cover wastes imported and exported for final disposal.

The OECD Decision requires Member countries to control transfrontier movements of hazardous wastes and ensure that adequate and timely information is transmitted from the exporting country to the importing country. The Decision requires that responsibility for the proper management of the waste, including the necessary re-exportation of waste, if safe disposal cannot be assured by the importing country, be specified in a contract between the exporter and the importer. Recognizing that Member countries would require time to implement the terms of the Decision within their domestic regulatory framework, yet desiring implementation of the Decision as quickly as possible, the OECD Council Decision was made effective on the date of its adoption. The U.S. expects to issue regulations implementing the Decision very shortly. Until such regulations become effective, all existing regulations regarding the export of hazardous wastes from the U.S. and imports of hazardous wastes to the U.S. remain in effect and enforceable. After May 5, 1992, exports to and imports from OECD Member countries for final disposal will cease if the OECD country has ratified the Basel Convention. OECD Members that have ratified Basel include: Australia, Finland, France, Norway, Sweden, and Switzerland.

Dated: May 5, 1992

Don R. Clay,

Assistant Administrator.

#### **V. Text of the Basel Convention**

*Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; Preamble*

The Parties to this Convention.

*Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof,*

*Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes,*

*Mindful also that the most effective way of protecting human health and the environment*

*from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,*

*Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of their disposal,*

*Noting that States should ensure that the generator should carry out duties with regard to the transport and disposal of hazardous wastes and other wastes in a manner that is consistent with the protection of the environment, whatever the place of disposal,*

*Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory,*

*Recognized also the increasing desire for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially developing countries,*

*Convinced that hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated,*

*Aware also that transboundary movements of such wastes from the State of their generation to any other State should be permitted only when conducted under conditions which do not endanger human health and the environment, and under conditions in conformity with the provisions of this Convention,*

*Considering that enhanced control of transboundary movement of hazardous wastes and other wastes will act as an incentive for their environmentally sound management and for the reduction of the volume of such transboundary movement,*

*Convinced that States should take measures for the proper exchange of information on and control of the transboundary movement of hazardous wastes and other wastes from and to those States,*

*Noting that a number of international and regional agreements have addressed the issue of protection and preservation of the environment with regard to the transit of dangerous goods,*

*Taking into account the Declaration of the United States Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987, the Recommendations of the United Nations Committee on Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,*

*Mindful of the spirit, principles, aims and functions of the World Charter for Nature adopted by the General Assembly of the*



United Nations at its thirty-seventh session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources.

*Affirming* that States are responsible for the fulfillment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law.

*Recognizing* that in the case of a material breach of the provisions of this Convention or any protocol thereto the relevant international law of treaties shall apply.

*Aware* of the need to continue the development and implementation of environmentally sound low-waste technologies, recycling options, good house-keeping and management systems with a view to reducing to a minimum the generation of hazardous wastes and other wastes.

*Aware also* of the growing international concern about the need for stringent control of transboundary movement of hazardous wastes and other wastes, and of the need as far as possible to reduce such movement to a minimum.

*Concerned* about the problem of illegal transboundary traffic in hazardous wastes and other wastes.

*Taking into account also* the limited capabilities of the developing countries to manage hazardous wastes and other wastes.

*Recognizing* the need to promote the transfer of technology for the sound management of hazardous wastes and other wastes produced locally, particularly to the developing countries in accordance with the spirit of the Cairo Guidelines and decision 14/16 of the Governing Council of UNEP on Promotion of the transfer of environmental protection technology.

*Recognizing also* that hazardous wastes and other wastes should be transported in accordance with relevant international conventions and recommendations.

*Convinced also* that the transboundary movement of hazardous wastes and other wastes should be permitted only when the transport and the ultimate disposal of such wastes is environmentally sound, and

*Determined* to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes.

Have Agreed as Follows:

#### Article 1

##### Scope of the Convention

1. The following wastes that are subject to transboundary movement shall be "hazardous wastes" for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and

(b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be other wastes for the purposes of this Convention.

3. Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials, are excluded from the scope of this Convention.

4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are excluded from the scope of this Convention.

#### Article 2

##### Definitions

For the purposes of this Convention:

1. *Wastes* are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;

2. *Management* means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;

3. *Transboundary movement* means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;

4. *Disposal* means any operation specified in Annex IV to this Convention;

5. *Approved site or facility* means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

6. *Competent authority* means one governmental authority designated by a Party to be responsible, within such geographical area as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;

7. *Focal point* means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 15;

8. *Environmentally sound management of hazardous wastes or other wastes* means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;

9. *Area under the national jurisdiction of a State* means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;

10. *State of export* means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;

11. *State of import* means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in

an area not under the national jurisdiction of any State;

12. *State of transit* means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;

13. *States concerned* means Parties which are States of export or import, or transit States, whether or not Parties;

14. *Person* means any natural or legal person;

15. *Exporter* means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;

16. *Importer* means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;

17. *Carrier* means any person who carries out the transport of hazardous wastes or other wastes;

18. *Generator* means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;

19. *Disposer* means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;

20. *Political and/or economic integration organization* means any organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;

21. *Illegal traffic* means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

#### Article 3

##### National Definitions of Hazardous Wastes

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.

3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.

4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters.

#### Article 4

##### General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting;

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic;

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.

4. Each Party shall take appropriate legal, administrative and other measures to

implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.

5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.

6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.

7. Furthermore, each Party shall: (a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:

(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or

(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign

rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.

## Article 5

### *Designation of Competent Authorities and Focal Point*

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designation made by them under paragraph 2 above.

## Article 6

### *Transboundary Movement between Parties*

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

(a) The notifier has received the written consent of the State of import; and

(b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions.



denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply *mutatis mutandis* to the exporter and the State of export, respectively;

(b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply *mutatis mutandis* to the importer or disposer and State of import, respectively; or

(c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

#### Article 7

##### *Transboundary Movement from a Party through States which are not Parties*

Paragraph 2 of Article 6 of the Convention shall apply *mutatis mutandis* to transboundary movement of hazardous wastes or other wastes from a party through a State or States which are not Parties.

#### Article 8

##### *Duty to Re-import*

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

#### Article 9

##### *Illegal Traffic*

1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:

(a) Without notification pursuant to the provisions of this Convention to all States concerned; or

(b) Without the consent pursuant to the provisions of this Convention of a State concerned; or

(c) With consent obtained from States concerned through falsification, misrepresentation or fraud; or

(d) that does not conform in a material way with the documents; or

(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law, shall be deemed to be illegal traffic.

2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

(a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,

(b) are otherwise disposed of in accordance with the provisions of this Convention.

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 90 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In case where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other parties, as appropriate, shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The parties shall co-operate with a view to achieving the objects of this Article.

#### Article 10

##### *International Co-operation*

1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.

2. To this end, the Parties shall:

(a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;

(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound

management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice.

3. The Parties shall employ appropriate means to co-operate in order to assist developing countries in the implementation of subparagraphs a, b, c, and d of paragraph 2 of Article 4.

4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, *inter alia*, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

#### Article 11

##### *Bilateral, Multilateral and Regional Agreements*

1. Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

#### Article 12

##### *Consultations on Liability*

The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.

#### Article 13

##### *Transmission of Information*

1. The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal,

which are likely to present risks to human health and the environment in other States, those states are immediately informed.

2. The Parties shall inform each other, through the Secretariat, of:

(a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;

(b) Changes in their national definition of hazardous wastes, pursuant to Article 3; and, as soon as possible,

(c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;

(d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;

(e) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year, containing the following information:

(a) Competent authorities and focal points that have been designated by them pursuant to Article 5;

(b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:

(i) The amount of hazardous wastes and other wastes exported, their category characteristics, destination, any transit country and disposal method as stated on the response to notification;

(ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;

(iii) Disposals which did not proceed as intended;

(iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;

(c) Information on the measures adopted by them in implementation of this Convention;

(d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;

(g) Information on disposal options operated within the area of their national jurisdiction;

(h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and

(i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given

transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done.

#### Article 14

##### *Financial Aspects*

1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

#### Article 15

##### *Conference of the Parties*

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.

4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.

5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

(a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;

(b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, *inter alia*, available scientific, technical, economic and environmental information;

(c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11;

(d) Consider and adopt protocols as required; and

(e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

6. The United Nations, its specialized agencies, as well as any State not party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

#### Article 16

##### *Secretariat*

1. The functions of the Secretariat shall be:

(a) To arrange for and service meetings provided for in Articles 15 and 17;

(b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

(c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;

(d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(e) To communicate with focal points and competent authorities established by the Parties in accordance with Article 5 of this Convention;

(f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;

(g) To receive and convey information from and to Parties on:

—sources of technical assistance and training;

—available technical and scientific know-how;

—sources of advice and expertise; and

—availability of resources

with a view to assisting them, upon request, in such areas as:

—the handling of the notification system of this Convention;

—the management of hazardous wastes and other wastes;

—environmentally sound technologies relating to hazardous wastes and other wastes, such as low- and non-waste technology;

—the assessment of disposal capabilities and sites;

—the monitoring of hazardous wastes and other wastes; and

—emergency responses;

(h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;

(i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;

(j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and

(k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.

3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

#### Article 17

##### *Amendment of the Convention*

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, *inter alia*, of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.

4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted the amendments to the protocol concerned, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, *Parties present and voting* means Parties present and casting an affirmative or negative vote.

#### Article 18

##### *Adoption and Amendment of Annexes*

1. The annexes of this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;

(b) Any Party that is unable to accept an additional annex to this Convention or an

annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party.

(c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned, which have not submitted a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, *inter alia*, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol enters into force.

#### Article 19

##### Verification

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention may inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. All relevant information should be submitted by the Secretariat to the Parties.

#### Article 20

##### Settlement of Disputes

1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through means mentioned in the preceding paragraph, the dispute, if the parties to the dispute agree, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to reach common agreement on submission of the dispute to the International Court of Justice or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any Party accepting the same obligation:

- (a) submission of the dispute to the International Court of Justice; and/or
- (b) arbitration in accordance with the procedures set out in Annex VI.

Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

#### Article 21

##### Signature

This Convention shall be open for signature by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23 March 1989 to 30 June 1989, and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.

#### Article 22

##### Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who will inform the Parties of any substantial modification in the extent of their competence.

#### Article 23

##### Accession

1. This Convention shall be open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 22, paragraph 2, shall apply to political and/or economic integration organizations which accede to this Convention.

#### Article 24

##### Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention shall have one vote.

2. Political and/or economic integration organizations, in matters within their competence, in accordance with Article 22, paragraph 3, and Article 33, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote in their member States exercise theirs, and vice versa.

#### Article 25

##### Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

2. For each State or political and/or economic integration organization which ratifies, accepts, approves or formally confirms this Convention or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or political and/or economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a political and/or economic integration organization shall not be counted as additional to those deposited by member States of such organization.

#### Article 26

##### Reservations and Declarations

1. No reservation or exception may be made to this Convention.

2. Paragraph 1 of this Article does not preclude a State or political and/or economic integration organizations, when signing, ratifying, accepting, approving, formally confirming or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

#### Article 27

##### Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may

withdraw from the Convention by giving written notification to the Depository.

2. Withdrawal shall be effective one year from receipt of notification by the Depository, or on such later date as may be specified in the notification.

#### Article 28

##### Depository

The Secretary-General of the United Nations shall be the Depository of this Convention and of any protocol thereto.

#### Article 29

##### Authentic Texts

The original Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

In Witness Whereof the undersigned, being duly authorized to that effect, have signed this Convention.

Done at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_

##### Annex I

#### Categories of Wastes to be Controlled

##### Waste Streams

- Y1 Clinical wastes from medical care in hospitals, medical centers and clinics
- Y2 Wastes from the production and preparation of pharmaceutical products
- Y3 Waste pharmaceuticals, drugs and medicines
- Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
- Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals
- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations containing cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or new and whose effects on man and/or the environment are not known

Y15 Wastes of an explosive nature not subject to other legislation

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials

Y17 Wastes resulting from surface treatment of metals and plastics

Y18 Residues arising from industrial waste disposal operations

##### Wastes Having as Constituents

- Y19 Metal carbonyls
- Y20 Beryllium; beryllium compounds
- Y21 Hexavalent chromium compounds
- Y22 Copper compounds
- Y23 Zinc compounds
- Y24 Arsenic; arsenic compounds
- Y25 Selenium; selenium compounds
- Y26 Cadmium; cadmium compounds
- Y27 Antimony; antimony compounds
- Y28 Tellurium; tellurium compounds
- Y29 Mercury; mercury compounds
- Y30 Thallium; thallium compounds
- Y31 Lead; lead compounds
- Y32 Inorganic fluorine compounds excluding calcium fluoride
- Y33 Inorganic cyanides
- Y34 Acidic solutions or acids in solid form
- Y35 Basic solutions or bases in solid form
- Y36 Asbestos (dust and fibres)
- Y37 Organic phosphorous compounds
- Y38 Organic cyanides
- Y39 Phenols; phenol compounds including chlorophenols
- Y40 Ethers
- Y41 Halogenated organic solvents
- Y42 Organic solvents excluding halogenated solvents
- Y43 Any congener of polychlorinated dibenzo-furan
- Y44 Any congener of polychlorinated dibenzo-p-dioxin
- Y45 Organohalogen compounds other than substances referred to in this Annex (e.g., Y39, Y41, Y42, Y43, Y44).

##### Annex II

#### Categories of Wastes Requiring Special Consideration

- Y46 Wastes collected from households
- Y47 Residues arising from the incineration of household wastes

##### Annex III

#### List of Hazardous Characteristics

UN class	Code characteristics
1	H1 Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3 Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example: paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapor at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)
4.1	H4.1 Flammable solids Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2 Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3 Substances or wastes which, in contact with water emit flammable gases



UN class <sup>1</sup>	Code characteristics
	Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1 Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.
5.2	H5.2 Organic Peroxides Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1 Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
6.2	H6.2 Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8 Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10 Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11 Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12 Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13 Capable, by any means, after disposal, of yielding another material, e.g., leakage, which possesses any of the characteristics listed above.

<sup>1</sup> Corresponds to the hazard classification system included in the United Nations Rec-

ommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/REV.5, United Nations, New York, 1988).

#### Tests

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterize potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

#### Annex IV

##### Disposal Operations

A. Operations Which do not Lead to the Possibility of Resource Recovery, Recycling, Reclamation, Direct Re-use or Alternative Uses

Section A encompasses all such disposal operation which occur in practice.

D1 Deposit into or onto land, (e.g., landfill, etc.)

D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)

D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)

D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D6 Release into a water body except seas/oceans

D7 Release into seas/oceans including seabed insertion

D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A

D9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)

D10 Incineration on land

D11 Incineration at sea

D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)

D13 Blending or mixing prior to submission to any of the operations in Section A

D14 Repackaging prior to submission to any of the operations in Section A

D15 Storage pending any of the operations in Section A

B. Operations Which May Lead to Resource Recovery, Recycling, Reclamation, Direct Re-use or Alternative Uses

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and

which otherwise would have been destined for operations included in Section A.

R1 Use as a fuel (other than in direct incineration) or other means to generate energy

R2 Solvent reclamation/regeneration

R3 Recycling/reclamation of organic substances which are not used as solvents

R4 Recycling/reclamation of metals and metal compounds

R5 Recycling/reclamation of other inorganic materials

R6 Regeneration of acids or bases

R7 Recovery of components used for pollution abatement

R8 Recovery of components from catalysts

R9 Used oil re-refining or other reuses of previously used oil

R10 Land treatment resulting in benefit to agriculture or ecological improvement

R11 Uses of residual materials obtained from any of the operations numbered R1-R10

R12 Exchange of wastes for submission to any of the operations numbered R1-R11

R13 Accumulation of material intended for any operation in Section B

#### Annex V A

##### Information To Be Provided on Notification

1. Reason for waste export.

2. Exporter of the waste.<sup>1</sup>

3. Generator(s) of the waste and site of generation.<sup>1</sup>

4. Disposer of the waste and actual site of disposal.<sup>1</sup>

5. Intended carrier(s) of the waste or their agents, if known.<sup>1</sup>

6. Country of export of the waste

Competent authority.<sup>2</sup>

7. Expected countries of transit Competent authority.<sup>2</sup>

8. Country of import of the waste

Competent authority.<sup>2</sup>

9. General or single notification.

10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit).<sup>3</sup>

11. Means of transport envisaged (road, rail, sea, air, inland waters).

12. Information relating to insurance.<sup>4</sup>

13. Designation and physical description of the waste including Y number and UN number and its composition<sup>5</sup> and information on any special handling requirements including emergency provisions in case of accidents.

14. Type of packaging envisaged (eg. bulk, drummed, tanker).

15. Estimated quantity in weight/volume.<sup>6</sup>

16. Process by which the waste is generated.<sup>7</sup>

17. For wastes listed in Annex I, classifications from Annex II: hazardous characteristic, N number, and UN class.

18. Method of disposal as per Annex III.

19. Declaration by the generator and exporter that the information is correct.

20. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was no reason to believe that the wastes will not be managed

in an environmentally sound manner in accordance with the laws and regulations of the country of import.

21. Information concerning the contract between the exporter and disposer.

#### Notes

<sup>1</sup> Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.

<sup>2</sup> Full name and address, telephone, telex or telefax number.

<sup>3</sup> In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

<sup>4</sup> Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

<sup>5</sup> The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

<sup>6</sup> In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

<sup>7</sup> Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

#### Annex V B

##### Information To Be Provided on the Movement Document

1. Exporter of the waste.<sup>1</sup>
2. Generator(s) of the waste and site of generation.<sup>1</sup>
3. Disposer of the waste and actual site of disposal.<sup>1</sup>
4. Carrier(s) of the waste<sup>1</sup> or his agent(s).
5. Subject of general or single notification.
6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste.
7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated).
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable).
9. Information on special handling requirements including emergency provision in case of accidents.
10. Type and number of packages.
11. Quantity in weight/volume.
12. Declaration by the generator or exporter that the information is correct.
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties.
14. Certification by disposer of receipt at designated disposal facility and indication of

method of disposal and of the approximate date of disposal.

#### Notes

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

<sup>1</sup> Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

#### Annex VI

##### Arbitration

#### Article 1

Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

#### Article 2

The claimant party shall notify the Secretariat that the parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of Article 20 and include, in particular, the Articles of the Convention the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

#### Article 3

The arbitral tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties nor be employed by any of them, nor have dealt with the case in any other capacity.

#### Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who

shall make this appointment within a further two months' period.

#### Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of the Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

#### Article 6

1. The decisions of the arbitral tribunal both on procedure and on substance, shall be taken by majority vote of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party in the dispute shall not constitute an impediment to the proceedings.

#### Article 7

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

#### Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

#### Article 9

Any Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

#### Article 10

1. The tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

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